



South Dakota
Department of
Social Services

**South Dakota Board of
Social Work Examiners**
810 N. Main Street, Suite 298
Spearfish, SD 57783
Phone: 605.642.1600

Email: proflic@rushmore.com

Web: <https://dss.sd.gov/licensingboards/socialwork/social.aspx>

**DRAFT MEETING AGENDA
TELECONFERENCE
South Dakota Board of Social Work Examiners
June 3, 2022-12:00PM CDT/11:00AM MDT**

The public is invited to attend the meeting via teleconference. Please call the switchboard at (866) 705-2554, key in the access code 263756. If you need assistance (605) 642-1600.

Member Listing:

1. Karen Chesley, CSW-PIP, President
2. Michael Forgy, CSW-PIP, Secretary/Treasurer
3. Jennifer Gray, CSW-PIP, Member
4. Sharon Stratman, SW, Member
5. Susan Kornder, CSW-PIP, Member
6. Kim Brakke, Lay Member
7. Bonnie Untereiner-Bjork, Lay Member
8. Vicki Isler, Ed.D., BCBA-D-Applied Behavior Analyst Committee
9. Amber Bruns, MS, BCBA-Applied Behavior Analyst Committee
10. Lisa Stanley, DVM, Lay Member-Applied Behavior Analyst Committee

Purpose: The Board protects the health and safety of the consumer public by licensure of qualified persons, enforcement of the statutes, rules and regulations governing the practice of social work, including the appropriate resolution of complaints.

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1. Call to Order/Welcome and introductions
 2. Roll Call
 3. Corrections or additions to the agenda
 4. Approval of the agenda
 5. Public Comment at 12:05 p.m.- 5 minutes for the public to address the Board
 6. Approval of the minutes from April 8, 2022
 7. FY Financial Update
 8. ABA Updates
 9. ABA Student Supervision
 10. ABA Potential Legislation
 11. Legislative Updates
 12. Discussion on CSW-PIP Supervisor requirements
 13. 2022 ASWB Education Meeting Update – Chesley
 14. Board Member Appointments
 15. Schedule next meetings(s)
 16. Any other business coming in between date of mailing and date of meeting

17. Executive Session Pursuant to SDCL 1-25-2
 - a. Complaints/investigations
 - #272
 - #274
 - #275
 - b. CSW-PIP Contract approvals
18. CSW-PIP Applicant Approval Report
19. Adjourn



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OFFICIAL BOARD MINUTES

Teleconference

April 8, 2022-12:00PM CDT / 11:00 AM MDT

Members Present: Karen Chesley, President
Michael Forgy, Secretary/Treasurer
Jennifer Gray, Member
Sharon Stratman, Member (joined at 11:03 p.m. MDT)
Susan Kornder, Member
Kim Brakke, Lay Member

Members Absent: Bonnie Bjork, Lay Member

Others Present: Carol Tellinghuisen, Executive Secretary; Brooke Tellinghuisen-Geddes, Executive Assistant; Abby Rehorst, Executive Assistant; Vicki Isler, Amber Bruns, Lisa Stanley ABA Advisory Committee Members; Ryan Loker, Special Assistant Attorney General, DSS; Dave Mendel, NASW.

Call to Order/Welcome and Introductions: Chesley called the meeting to order at 11:01 a.m. MDT.

Roll Call: Chesley requested Tellinghuisen-Geddes call the roll. Chesley, yes; Forgy, yes; Gray, yes; Stratman, yes; Kornder, yes; Brakke, yes.. A quorum was present.

Corrections or additions to the agenda: None.

Approval of the agenda: Forgy made a motion to approve the agenda. Gray seconded the motion. **MOTION PASSED** by unanimous voice vote.

Public Comment: None.

Approval of the Minutes from Board meeting February 10, 2022: Forgy made a motion to approve the minutes from February 10, 2022. Stratman seconded the motion. **MOTION PASSED** by unanimous voice vote.

FY Financial Update: Tellinghuisen-Geddes reported fiscal year-to-date figures as of February 28, 2022: revenue of \$123,005.66, expenses of \$79,588.85, and cash balance of \$313,603.67.

ABA Updates: Isler stated that the first year of the ABA program at USD went well. There were approximately six (6) participants. She also stated that Augustana is going to implement an ABA program and they are hoping to have approximately sixteen (16) students.

ABA Potential Legislation: Stanley stated that the ABA law which placed the ABA's under the Board of Social Work is set to expire in 2024. Tellinghuisen stated that the ABA numbers continue to grow however they do not currently have enough licensees to sustain their own Board. She further suggested that the Board consider extending the legislation for another five years which will allow the ABAs to remain under the Board of Social Work. The Board agreed. The Board office will work to change the dates in the proposed legislation and present it to the Board at the next meeting.

Discussion on out-of-state CSW-PIP Applicant Approvals: Tellinghuisen Geddes stated that all in-state CSW-PIP applications go to Chesley for review and approval as well as all of the out-of-state CSW-PIP applicants. Chesley stated that Tellinghuisen Geddes is always very thorough and that it would be helpful if the out-of-state CSW-PIP applicants could be approved solely by the Board office unless special circumstances exist. Brakke made a motion to allow the Board office to approve out-of-state CSW-PIP applications going forward. Stratman seconded the motion. **MOTION PASSED** by unanimous voice vote.

2022 ASWB Education Meeting – April 29th and 30th – Chicago Illinois: Chesley stated that she is set to attend this meeting.

Executive Session Pursuant to SDCL 1-25-2: Stratman made a motion to enter executive session at 11:25 a.m. MDT. Gray seconded the motion. **MOTION PASSED** by unanimous voice vote. Bruns, Isler, Stanley, and Mendel exited the meeting. The Board exited executive session at 11:33 a.m. MDT.

Complaints/Investigations: Rehorst advised that complaints #272, #274, and #275 are pending.

CSW-PIP Supervision Contracts: Stratman made a motion to approve the following contracts. Forgy seconded the motion.

MOTION PASSED by unanimous voice vote.

David, B.: Supervision with Hutchison beginning March 1, 2022;

Grong, A.: Supervision with Bartmann beginning March 22, 2022;

Holman, M.: Supervision with Shepherd beginning February 2, 2022;

Keizer, E.: Supervision with Walton beginning beginning February 9, 2022;

McCloud, M.: Supervision with Smykle beginning February 25, 2022;

Obineche, M.: Supervision with Sprague beginning March 16, 2022;

Rudd, K.: Supervision with Smykle beginning February 22, 2022;

Sammeli, M.: Supervision with Hill beginning February 11, 2022;

Schaeffer, A.: Supervision with Tobin beginning February 21, 2022;

Scherr, S.: Supervision with Smykle beginning February 21, 2022;

Waitman, A.: Supervision with Grim beginning February 7, 2022;

Walker, J.: Supervision with Bass beginning February 7, 2022;

Farris, M.: Supervision with Bartmann beginning March 24, 2022.

Any other business coming in between date of mailing and date of meeting: There was no other business. The next meeting is scheduled for June 3, 2022 at 11:00 a.m. MDT.

Forgy made a motion to adjourn at 11:39 a.m. MDT. Stratman seconded the motion. **MOTION PASSED** by unanimous voice vote

Respectfully submitted,



Carol Tellinghuisen
Executive Secretary

1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

BOARD OF SOCIAL WORK EXAMINERS
 REVENUE SUMMARY
 FOR MONTH ENDING 04/30/22

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	4920045			0893000	719		2022	10	\$ 3,651.64	\$ -
6503	4950000	0	0	0893000	719		2022	10	\$ 459.02	\$ -
6503	4293000	0	0	0893000	719		2022	10	\$ 128,970.00	\$ 4,805.00
									\$ 133,080.66	\$ 4,805.00

BOARD OF SOCIAL WORK EXAMINERS
EXPENDITURE SUMMARY REPORT
FOR MONTH ENDING 04/30/22

COMP	ACCOUNT	BDGT YEAR	GRANT YEAR	ACCOUNT DESCRIPTION	CENTER	FUND SRC	SUB FUND	FISCAL YEAR	FISCAL MONTH	YTD AMOUNT	MTD AMOUNT
6503	5204020	0	0	DUES & MEMBERSHIP FEES	0893000	719		2022	10	\$ 250.00	\$ -
6503	5204030	0		LEGAL DOCUMENT FEES	0893000	719		2022	10	\$ 43.25	\$ -
6503	5204090	0	0	MANAGEMENT CONSULTANT	0893000	719		2022	10	\$ 78,635.91	\$ 7,551.17
6503	5102020	0	0	RETIREMENT-ER SHARE	0893000	719		2022	10	\$ 226.52	\$ 39.85
6503	5102060	0	0	HEALTH/LIFE INS.-ER SHARE	0893000	719		2022	10	\$ 475.27	\$ 46.84
6503	5204130	0	0	OTHER CONSULTING	0893000	719		2022	10	\$ 5,844.75	\$ 799.75
6503	5204201	0	0	BFM CENTRAL SERVICES	0893000	719		2022	10	\$ 2,355.87	\$ -
6503	5204204	0	0	RECORDS MGMT SERVICES	0893000	719		2022	10	\$ 267.50	\$ 65.00
6503	5204207	0	0	HUMAN RESOURCES SERVICES	0893000	719		2022	10	\$ 840.27	\$ 107.49
6503	5204590	0	0	INS PREMIUMS & SURETY BDS	0893000	719		2022	10	\$ 1,280.30	\$ 1,280.30
6503	5204740	0	0	BANK FEES AND CHARGES	0893000	719		2022	10	\$ 130.52	\$ 0.02
6503	5101010	0	0	F-T EMP SAL & WAGES	0893000	719		2022	10	\$ 3,774.05	\$ 663.18
6503	5101030	0	0	BOARD & COMM MBRS FEES	0893000	719		2022	10	\$ 2,160.00	\$ 300.00
6503	5102010	0	0	OASI-EMPLOYER'S SHARE	0893000	719		2022	10	\$ 446.31	\$ 72.36
6503	5102080	0	0	WORKER'S COMPENSATION	0893000	719		2022	10	\$ 31.74	\$ 9.78
6503	5102090	0	0	UNEMPLOYMENT COMPENSATION	0893000	719		2022	10	\$ 0.19	\$ 0.01
6503	5204510	0	0	RENTS-OTHER	0893000	719		2022	10	\$ 3,300.00	\$ 300.00
6503	5204530	0	0	TELECOMMUNICATIONS SRVCS	0893000	719		2022	10	\$ 118.96	\$ -
6503	5205320	0	0	PRINTING-COMMERCIAL	0893000	719		2022	10	\$ 1,347.77	\$ 240.02
6503	5205350	0	0	POSTAGE	0893000	719		2022	10	\$ 10.94	\$ -
										\$ 101,540.12	\$ 11,475.77

**BOARD OF SOCIAL WORK EXAMINERS
CASH CENTER BALANCE
FOR MONTH ENDING 04/30/22**

[illegible]

From: [REDACTED]
Sent: Wednesday, March 30, 2022 3:18 PM
To: [REDACTED]
Subject: SD State Licensure Question

CAUTION: This email originated from outside of SWWC. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I've been talking with HOPE Group Clinical, who will be providing online supervision for our ABA program. The supervision will be provided through three practicum courses that are required for the degree program (and will be transcribed onto the degree as Augustana continuing education courses), but the HOPE Group BCBA supervisors are not employees of Augustana. I was not able to clarify from reading the state rules, but would there be an issue with ABA students/supervisees accruing field experience hours in South Dakota being supervised by a BCBA who is not licensed in SD?

I am thinking that HOPE Group would be exempted from having to be licensed in SD by this part of the rules:

36-38-5. Persons to whom chapter does not apply.

8. Professional who provides general applied behavior analysis services to an organization, so long as the services are for the benefit of the organization and do not involve direct services to any person.

Can you advise me on this?

Thanks so much!

[REDACTED]

Associate Professor, Special Education
ABA Program Director and VCS Coordinator
Sharon Lust School of Education
Augustana University
2001 S. Summit Avenue
Sioux Falls, SD 57197
605.274.4623

Pronouns: she, her, hers

Ask me about [Augie ABA](#), our graduate program in Applied Behavior Analysis (an ABAI Verified Course Sequence)!

AU AUGUSTANA
UNIVERSITY

CHAPTER [36-38](#) BEHAVIOR ANALYSTS

36-38-1	Definitions.
36-38-2	Conduct included within practice of applied behavior analysis.
36-38-3	Conduct not included within practice of applied behavior analysis.
36-38-4	Applied behavior analyst advisory committee--Appointment--Terms--Duties.
36-38-5	Persons to whom chapter does not apply.
36-38-6	License required to practice as behavior analyst.
36-38-7	Qualifications for licensure.
36-38-8	Application fee.
36-38-9	Application for license.
36-38-10	Fee for initial licensure.
36-38-11	Code of ethics.
36-38-12	Grounds for denial, revocation, suspension, or cancellation of license.
36-38-13	Commencement of proceedings for cancellation or revocation of license.
36-38-14	Hearing on cancellation or revocation of license--Decision.
36-38-15	Administrative procedure for cancellation or revocation of license.
36-38-16	Appeal.
36-38-17	Reinstatement of license.
36-38-18	Record of licensees.
36-38-19	Practice without license--Misdemeanor.
36-38-20	Duties of board.
36-38-21	Investigation of suspected violations--Prosecution of violations.
36-38-22	Injunction--Election of injunction or criminal action.
36-38-23	Money credited to board of social work examiners fund.
36-38-24	Confidentiality of consultation with behavior analyst.
36-38-25	Criminal background checks of assistant behavior analysts and paraprofessionals.
36-38-26	Certain assistant behavior analysts and paraprofessionals ineligible.
36-38-27	Promulgation of rules.

36-38-1. Definitions.

Terms used in this chapter mean:

- (1) "Applied behavior analysis," as provided in subdivision 58-17-154(1);
 - (2) "Behavior analyst," a person who meets the qualifications of subdivision 58-17-159(2), who is licensed as a behavior analyst by the board only for the provision of applied behavior analysis as defined in §§ [36-38-2](#) and [36-38-3](#), and who holds himself or herself out to the public by any title or description of services which uses the words behavior analyst or applied behavior analyst;
 - (3) "Board," the Board of Social Work Examiners, as established in chapter [36-26](#).
- (This section is repealed effective July 1, ~~2024~~ [2029](#) pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 1.

36-38-2. Conduct included within practice of applied behavior analysis.

The term, practice of applied behavior analysis, is the application of principles, methods, and procedures of the analysis of behavior including principles of operant and respondent learning. The term includes applications of those principles, methods, and procedures to:

- (1) Design, supervise, evaluate, and modify treatment programs to change the behavior of individuals diagnosed with an autism spectrum disorder;
- (2) Design, supervise, evaluate, and modify treatment programs to change the behavior of individuals;
- (3) Design, supervise, evaluate, and modify treatment programs to change the behavior of groups; and
- (4) Consult with individuals and organizations.

(This section is repealed effective July 1, 2024 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 2.

36-38-3. Conduct not included within practice of applied behavior analysis.

The term, practice of applied behavior analysis, does not include diagnosis, counseling, psychological testing, personality assessment, intellectual assessment, neuropsychological assessment, psychotherapy, cognitive therapy, sex therapy, family therapy, coordination of care, psychoanalysis, hypnotherapy, or long-term counseling as a treatment modality. (This section is repealed effective July 1, 2024 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 3.

36-38-4. Applied behavior analyst advisory committee--Appointment--Terms--Duties.

The Governor shall appoint an applied behavior analyst advisory committee composed of three members. Two of the members shall be behavior analysts licensed under this chapter and the other member shall represent the public and be unaffiliated with the profession.

Each committee member shall serve a term of three years. The terms of the initial appointees shall be staggered so that no more than one member's term expires in any one year. No committee member may be appointed to more than three consecutive full terms. If a vacancy occurs, the Governor shall appoint a person to fill the unexpired term. The appointment of a member to an unexpired term is not considered a full term. The committee shall meet at least annually or as necessary to conduct business. The committee shall assist the board in the regulation of behavior analysts pursuant to this chapter. The committee shall also make recommendations to the board regarding rules promulgated pursuant to this chapter.

The term of a member begins on October thirty-first of the calendar year in which the Governor appoints the member, unless otherwise designated by the Governor. The term of a member expires on October thirtieth in the third year of appointment. The committee shall meet the requirements of chapter 1-25 regarding open meetings.

Source: SL 2016, ch 199, § 4; SL 2020, ch 167, § 10.

36-38-5. Persons to whom chapter does not apply.

The provisions of this chapter do not apply to any:

- (1) Employee of a regionally accredited academic institution while performing teaching, training, or research duties;
- (2) Provider who is not a resident of this state, and who has established an office in this state, who provides behavior analyst services in this state for a period which does not exceed an aggregate of more than twenty days during any one year if the provider is authorized under the laws of the state or country of residence to perform these activities and services. If the provider exceeds twenty consecutive days of practice in this state in any calendar year the provider shall report to the board, in writing, the nature and extent of the provider's practice in this state;
- (3) Qualified physician, surgeon, psychologist, dentist, osteopath, optometrist, chiropractor, podiatrist, registered nurse, attorney, court employee, marriage counselor, family counselor, member of the clergy, mental health counselor, school counselor, rehabilitation counselor, employment counselor, guidance counselor, social worker, or licensed professional counselor doing work within the standards and ethics of the person's respective profession who does not hold himself or herself out to the public by any title incorporating the term behavior analyst;
- (4) Matriculated college or university student whose applied behavior analysis activity is part of a defined program of study, course, practicum, internship, or postdoctoral traineeship, if the applied behavior analysis activities under this exemption are directly supervised by a behavior analyst in this state, an instructor in a course sequence approved by the certifying entity, or another qualified faculty member. The individual student may not represent himself or herself as a behavior analyst and shall use a title that clearly indicates the student's training status, such as student, intern, or trainee;
- (5) Family member of a recipient of applied behavior analysis services implementing behavior analysis treatment plans with the recipient under the extended authority and direction of a behavior analyst. The family member may not represent himself or herself as a behavior analyst;
- (6) Assistant behavior analyst or paraprofessional who delivers applied behavior analysis services under the extended authority and direction of a behavior analyst provided that the services are supervised in accordance with the requirements of the Behavior Analyst Certification Board, Inc. The assistant behavior analyst or paraprofessional may not represent himself or herself as a behavior analyst, and shall use a title that indicates assistant or paraprofessional status, such as an assistant behavior analyst, ABA technician, behavior technician, tutor, or line therapist. The assistant behavior analyst or paraprofessional shall submit to a criminal background check and fingerprint checks pursuant to the provisions of this chapter;
- (7) Behavior analyst who practices with nonhumans, including an applied animal behaviorist and animal trainer;
- (8) Professional who provides general applied behavior analysis services to an organization, so long as the services are for the benefit of the organization and do not involve direct services to any person;
- (9) Unlicensed person pursuing experience in applied behavior analysis consistent with the experience requirements of the Behavior Analyst Certification Board, Inc., if the

experience is supervised in accordance with the requirements of the Behavior Analyst Certification Board, Inc. The person may not represent himself or herself as a behavior analyst and shall use a title that clearly indicates the person's training status, such as student, intern, or trainee;

- (10) Person employed by a school board performing the duties of a position for the school. The person may not represent himself or herself as a behavior analyst, unless the person holds a license under this chapter; or
- (11) Any person who meets the requirements set out in subdivision 58-17-159(1).

(This section is repealed effective July 1, ~~2024~~ 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 5.

36-38-6. License required to practice as behavior analyst.

No person may represent himself or herself as a behavior analyst, or engage in the practice of, or attempt to practice applied behavior analysis unless licensed pursuant to the provisions of this chapter as an applied behavior analyst or exempted under the provisions of this chapter. (This section is repealed effective July 1, ~~2024~~ 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 6.

36-38-7. Qualifications for licensure.

The board may grant a license as a behavior analyst to an applicant who:

- (1) Has earned a master's degree or a doctoral degree;
- (2) Holds a current certification as a board certified behavior analyst by the Behavior Analyst Certification Board, Inc., or any successor in interest to that organization;
- (3) Has not been convicted of a felony or a misdemeanor involving moral turpitude as defined in subdivision 22-1-2(25) during the past five years; and
- (4) Has submitted verification that the applicant is not subject to any disciplinary proceeding or pending complaint before any other licensing board unless the board considers such proceeding or complaint and agrees to licensure.

(This section is repealed effective July 1, ~~2024~~ 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 7.

36-38-8. Application fee.

The application fee for a license to practice applied behavior analysis shall be set by the board in rules promulgated pursuant to chapter 1-26. The fee may not exceed three hundred dollars. The applicant shall pay fees for the cost of certification directly to the Behavior Analyst Certification Board, Inc. No fee assessed on a licensed social worker may be increased to support the licensure of a behavior analyst as required under this chapter. (This section is repealed effective July 1, ~~2024~~ 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 8.

36-38-9. Application for license.

In applying for licensing, an applicant shall apply on a form prescribed by the board. The application shall be witnessed and notarized by a notary public. The license fee shall accompany the application. The application and all supporting evidence shall be public record as provided in chapter [1-27](#). (This section is repealed effective July 1, ~~2024~~ [2029](#) pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 9.

36-38-10. Fee for initial licensure.

After a behavior analyst applicant presents evidence of certification, the applicant shall pay a fee for initial licensure set by the board, in rules promulgated pursuant to chapter [1-26](#), not to exceed three hundred fifty dollars. (This section is repealed effective July 1, ~~2024~~ [2029](#) pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 10.

36-38-11. Code of ethics.

The board shall adopt a code of ethics for behavior analysts licensed under this chapter. (This section is repealed effective July 1, ~~2024~~ [2029](#) pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 11.

36-38-12. Grounds for denial, revocation, suspension, or cancellation of license.

The board may deny, revoke, suspend, or cancel any license or application for licensure to practice as a behavior analyst and may take other disciplinary or corrective action as the board deems appropriate upon any of the following grounds:

- (1) The licensee or applicant is guilty of fraud in the practice of applied behavior analysis or fraud or deceit in the licensee's admission to practice applied behavior analysis;
- (2) The licensee or applicant has been convicted of a felony or misdemeanor involving moral turpitude as defined in subdivision 22-1-2(25) during the past five years;
- (3) The licensee or applicant is or has been engaged in the practice of applied behavior analysis under a false or assumed name and has not registered that name pursuant to chapter [37-11](#), or is impersonating another practitioner of a like or different name;
- (4) The licensee or applicant is addicted to the use of intoxicating liquors, narcotics, or stimulants to an extent as to incapacitate the licensee or applicant from the performance of the licensee's or applicant's professional duties;
- (5) The physical or mental condition of the licensee or applicant is determined, by a competent medical examiner, to jeopardize or endanger a person who seeks relief of the licensee or applicant. A majority of the entire board may demand an examination of the licensee or applicant by a competent medical examiner selected by the board at the

board's expense. If the licensee or applicant fails to submit to the examination, this constitutes immediate grounds for suspension of the licensee's license or denial of the application for licensure;

- (6) The licensee or applicant for licensure has been found in violation of the code of ethics adopted by the board;
- (7) The licensee or applicant has obtained or attempted to obtain a license, certificate, or renewal thereof by bribery or fraudulent representation;
- (8) The licensee or applicant knowingly made a false statement in connection with any application required by this chapter;
- (9) The licensee or applicant knowingly made a false statement on any form promulgated pursuant to this chapter;
- (10) The licensee or applicant has violated any provision of this chapter or the rules promulgated under this chapter; or
- (11) The licensee's or applicant's certificate, license, or permit has been cancelled, revoked, suspended, or rejected for renewal in any other state for any cause.

(This section is repealed effective July 1, 2024 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 12.

36-38-13. Commencement of proceedings for cancellation or revocation of license.

If the board has information that any licensee may be guilty of any misconduct as provided in § 36-38-12 or is guilty of gross incompetence or unprofessional or dishonorable conduct, the board may institute proceedings for cancellation or revocation of the license. (This section is repealed effective July 1, 2024 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 13.

36-38-14. Hearing on cancellation or revocation of license--Decision.

Each proceeding relative to the cancellation, revocation, or suspension of a license, or relative to reissuing a license which has been cancelled, revoked, or suspended may only be held if a majority of the members of the board are present at the hearing. The decision of the board to suspend, revoke, or cancel a license requires a majority vote of all of the board members. (This section is repealed effective July 1, 2024 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 14.

36-38-15. Administrative procedure for cancellation or revocation of license.

All proceedings relative to the cancellation, revocation, or suspension of a license shall conform to the procedure set forth in chapter 1-26. (This section is repealed effective July 1, 2024 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 15.

36-38-16. Appeal.

Any party aggrieved by any acts, rulings, or decisions of the board relating to refusal to grant or to cancellation, revocation, or suspension of a license may appeal pursuant to chapter 1-26. (This section is repealed effective July 1, ~~2024~~ 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 16.

36-38-17. Reinstatement of license.

Upon written application establishing compliance with existing licensing requirements and for reasons the board deems sufficient, the board, for good cause by majority vote, may reinstate or reissue a license that has been canceled, suspended, or revoked. However, upon suspension of a license, the board in the order may provide for automatic reinstatement after a fixed period of time as provided in the order. (This section is repealed effective July 1, ~~2024~~ 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 17.

36-38-18. Record of licensees.

The secretary-treasurer of the board shall keep a record of each person who has been granted a license pursuant to the provisions of this chapter, the license number, and the date the license was issued or renewed. The record may be admitted as evidence in any court. (This section is repealed effective July 1, ~~2024~~ 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 18.

36-38-19. Practice without license--Misdemeanor.

Any person who practices as a behavior analyst in this state without a license issued by the board is guilty of a Class 2 misdemeanor. (This section is repealed effective July 1, ~~2024~~ 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 19.

36-38-20. Duties of board.

In addition to the duties set forth elsewhere in this chapter, the board shall:

- (1) Recommend prosecution for any violation of this chapter to the appropriate state's attorney; or
- (2) Recommend to the attorney general the bringing of a civil action to seek injunction and other relief against any violation of this chapter.

(This section is repealed effective July 1, ~~2024~~ 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 20.

36-38-21. Investigation of suspected violations--Prosecution of violations.

The board shall investigate each suspected violation of this chapter pursuant to the procedures set forth in chapter 36-1C. If the suspected violation is committed by a nonlicensee, the board shall report the violation to the proper law enforcement official where the act is committed. The board is authorized to employ special counsel subject to the supervision, control, and direction of the attorney general to assist in the prosecution of violations of this chapter, and to expend the necessary funds for such purpose.

Source: SL 2016, ch 199, § 21; SL 2021, ch 168, § 47.

Effective July 1, 2024

36-38-21. . . Repealed.

Source: SL 2016, ch 199, §§ 21, 28; SL 2021, ch 168, §§ 47, 48.

36-38-22. Injunction--Election of injunction or criminal action.

Any person violating the provisions of this chapter may be enjoined from further violations at the suit of the state's attorney of the county where the violations occurred or suit may be brought by any citizen of this state. An action for injunction shall be an alternate to criminal proceedings, and the commencement of one proceeding by the board constitutes an election. (This section is repealed effective July 1, 2024 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 22.

36-38-23. Money credited to board of social work examiners fund.

Any money coming into the custody of the board pursuant to this chapter shall be credited to the South Dakota Board of Social Work Examiners fund established under § 36-26-43. (This section is repealed effective July 1, 2024 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 23.

36-38-24. Confidentiality of consultation with behavior analyst.

The relations and communications between a licensed behavior analyst and a person consulting a licensed behavior analyst in the person's professional capacity are confidential. Nothing in this chapter may be construed to require the person's confidential communications to be disclosed. (This section is repealed effective July 1, 2024 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 24.

36-38-25. Criminal background checks of assistant behavior analysts and paraprofessionals.

Any assistant behavior analyst or paraprofessional who delivers applied behavior analysis services under the extended authority and direction of a behavior analyst shall submit to a criminal background investigation, by means of fingerprint checks by the Division of Criminal Investigation. The behavior analyst who supervises the assistant behavior analyst or paraprofessional is responsible for any fees charged for the cost of fingerprinting or the criminal background investigation as required by this section. Each criminal record provided to the board under this section is confidential. The board may use the records only in determining an assistant behavior analyst's or paraprofessional's eligibility to be supervised by an applied behavior analyst for the delivery of applied behavior analysis.

Source: SL 2016, ch 199, § 25; SL 2019, ch 175, § 1.

36-38-26. Certain assistant behavior analysts and paraprofessionals ineligible.

No assistant behavior analyst or paraprofessional who has been convicted of a felony or misdemeanor involving moral turpitude as defined in subdivision 22-1-2(25) during the past five years may deliver applied behavior analysis services under the direction of a behavior analyst. (This section is repealed effective July 1, ~~2024~~ 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 26.

36-38-27. Promulgation of rules.

The board may promulgate rules, pursuant to chapter 1-26, that delineate qualifications for licensure, specify requirements for the annual renewal of licensure, establish standards of professional conduct, specify procedures for violations of professional conduct, permit inactive licensures, establish procedures for collection and management of fees and payments, establish fees for initial applications and annual licensure not to exceed the amounts specified in this chapter, delineate activities that may or may not be delegated to an assistant behavior analyst or paraprofessional, and specify requirements for supervision of assistant behavior analysts and paraprofessionals. (This section is repealed effective July 1, ~~2024~~ 2029 pursuant to SL 2016, ch 199, § 28.)

Source: SL 2016, ch 199, § 27.

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20:59:05:03. Qualifications of supervisor of a CSW-PIP candidate. The supervisor of a CSW-PIP candidate must be a certified social worker-private, independent practice, psychologist, or psychiatrist authorized to perform their profession in South Dakota and in good standing with the supervisor's respective licensing boards. A supervisor may supervise any number of CSW-PIP candidates upon board authorization, if the board finds that adequate supervision will exist under the proposed supervision agreement. A holder of a temporary permit or license may not supervise a CSW-PIP candidate.

Source: 26 SDR 81, effective December 12, 1999; 29 SDR 92, effective December 24, 2002.

General Authority:SDCL [36-26-29](#).

Law Implemented:SDCL [36-26-17](#).

Online Archived History:

There are currently no online archives for this rule.